

Message Text

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PAGE 01 STATE 110596
ORIGIN COME-00

INFO OCT-01 EUR-12 NEA-10 ISO-00 EB-08 L-03 PPTE-00
VO-03 CA-01 /038 R

DRAFTED BY COM/BED/JHEARN:SEB
APPROVED BY NEA/ARP:JTWINAM
COM/BED/CAGNE:PBHALE
COM/DAGC/ITA:KKNOWLES
COM/DAS/TR:SMARCUSS
L/NEA:MPEAY
NEA/RA:DTMORRISON
NEA/ARP:FGERLACH

-----125923 012237Z /62

R 012041Z MAY 78
FM SECSTATE WASHDC
TO AMEMBASSY BRUSSELS
AMEMBASSY JIDDA
INFO AMEMBASSY BONN
AMEMBASSY LONDON
AMEMBASSY PARIS

UNCLAS STATE 110596

E.O. 11652: N/A

TAGS: BEXP, BE, GW, SA, UK, FR

SUBJECT: ARAB BOYCOTT: REPORT OF NEW SAUDI VISA REQUIREMENT

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REF: A) BRUSSELS 2834; B) BRUSSELS 2538; C) JIDDA 1005;
D) BRUSSELS 2269; E) BRUSSELS 2260; F) STATE 30028

1. REF B REPORTED TEXT OF PARAGRAPH IN VISA APPLICATION
ISSUED BY SAUDI EMBASSY BRUSSELS REQUIRING CERTIFICATION
THAT APPLICANT'S FIRM HAS NO DIRECT OR INDIRECT FINANCIAL
RELATIONS WITH ISRAEL. FOLLOWING IS PROVIDED IN RESPONSE
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TO QUESTIONS PARA 2 REF A.

2. WHETHER OR NOT PART 369 OF EXPORT ADMINISTRATION
REGULATIONS (EFFECTIVE JANUARY 18, 1978) PROHIBIT SIGNING
OF VISA APPLICATION CONTAINING SUCH CERTIFICATION DEPENDS
ON CIRCUMSTANCES INVOLVED. GENERALLY, FURNISHING INFORMA-
TION ABOUT BUSINESS RELATIONSHIPS WITH A BOYCOTTED COUNTRY

IS PROHIBITED BY SECTION 369.2 D. FOR PROHIBITION TO APPLY, HOWEVER, THREE CONDITIONS MUST BE PRESENT: 1) ACTIVITY MUST BE BY A U.S. PERSON; 2) THE U.S. PERSON'S ACTIVITY MUST BE IN THE INTERSTATE OR FOREIGN COMMERCE OF THE UNITED STATES; AND 3) ACTIVITY MUST BE UNDERTAKEN WITH INTENT TO COMPLY WITH AN UNSANCTIONED FOREIGN BOYCOTT.

3. REQUISITE INTENT TO COMPLY WITH A BOYCOTT IS DEEMED TO BE PRESENT WHEN A PERSON KNOWINGLY PROVIDES INFORMATION IN RESPONSE TO A BOYCOTT REQUEST, AS IS THE CASE WITH THE CERTIFICATION REQUIREMENT CITED PARA 1 ABOVE (SEE SECTION 369.1 (E) (5). ALSO, ACT OF FURNISHING BOYCOTT INFORMATION MAY ITSELF BE AN ACTIVITY IN U.S. COMMERCE. THUS, IF INDIVIDUAL INVOLVED IS U.S. PERSON, AS DEFINED IN SECTION 369.1 (B) AND (C), ANSWER TO QUESTION OF WHETHER PROVIDING SUCH CERTIFICATION IS PROHIBITED BY REGULATIONS TURNS ON WHETHER SUCH ACTION IS WITH RESPECT TO A PERSON'S ACTIVITIES IN U.S.COMMERCE AS DEFINED IN SECTION 369.1 (D). THERE IS ALSO THE POSSIBILITY THAT SIGNING SUCH CERTIFICATION WOULD CONSTITUTE EVASION UNDER SECTION 369.4 OF REGULATIONS--E.G., IF U.S. PERSON USED VISA APPLICATION IN BRUSSELS AS MEANS OF PROVIDING BOYCOTT INFORMATION WHICH COULD NOT BE FURNISHED FROM U.S. DISCRIMINATORY INFORMATION OF COURSE, MAY NOT BE FURNISHED BY U.S. FIRM AT ANYTIME.

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4. REPORTING REGULATIONS EXISTING PRIOR TO EXPORT ADMINISTRATION AMENDMENTS OF 1977 CURRENTLY REMAIN UNTIL THE REVISED REPORTING REGULATIONS PURSUANT TO 1977 AMENDMENTS ARE ISSUED SOMETIME IN NEAR FUTURE. CURRENT REGULATIONS PROVIDE THAT ANY U.S. EXPORTER WHICH RECEIVES REQUEST FOR AN ACTION, INCLUDING FURNISHING OF INFORMATION, WHICH COULD HAVE EFFECT OF FURTHERING OR SUPPORTING A RESTRICTIVE TRADE PRACTICE OR BOYCOTT MUST REPORT THIS FACT TO THE USDOC. SEE EXPORT ADMINISTRATION BULLETIN NO. 164, 1/27/77, SECTION 396.4. IN CERTAIN CIRCUMSTANCES --E.G., OBTAINING A STOCK OF SUBJECT VISA APPLICATIONS FOR FUTURE USE--RECEIPT OF VISA FORM MIGHT NOT CONSTITUTE RECEIPT OF A REQUEST FOR AN ACTION REQUIRING A REPORT. IN ANY EVENT, HOWEVER, COMPLETION OF APPLICATION CONTAINING BOYCOTT CERTIFICATION FOR PURPOSES OF OBTAINING VISA WOULD BE AN ACTION GENERALLY TRIGGERING REPORTING REQUIREMENT FOR U.S. EXPORTERS. AT ISSUE IN BRUSSELS CASE DISCUSSED REFTELS IS WHETHER JURISDICTION OF CURRENT REPORTING REGULATIONS EXTENDS TO OVERSEAS SUBSIDIARIES OR REPS OF U.S. EXPORTERS. DEFINITIVE GUIDANCE IN THIS REGARD WAS PROVIDED EMBASSY BRUSSELS IN STATE 182247 DATED 8/3/77.

5. EMBASSY JIDDA IS REQUESTED TO TAKE APPROPRIATE OCCASION TO BRING TO ATTENTION OF SAUDI GOVT THE IMPLICATIONS OF REQUESTS FOR BOYCOTT-TYPE CERTIFICATIONS SUCH AS THOSE REPORTED REF B FOR U.S. PERSONS SEEKING TO DO BUSINESS IN SAUDI ARABIA. BASED ON INFORMATION WE HAVE HERE, NO SUCH BOYCOTT-TYPE CERTIFICATION IS ASKED OF PERSONS MAKING APPLICATIONS IN THE U.S. FOR SAUDI VISAS. EVEN THOUGH

SAUDI EMBASSIES IN EUROPE MAY NOT INSIST UPON RECEIPT OF BOYCOTT-TYPE CERTIFICATIONS DESCRIBED IN VISA FORMS, CURRENT SITUATION COULD IMPOSE SUBSTANTIAL REPORTING BURDEN ON U.S. PERSONS APPLYING FOR SAUDI VISAS IN EUROPE OR ELSEWHERE. CHRISTOPHER
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Message Attributes

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